
PRELIMINARY DRAFT

No. 3446

PREPARED BY

LEGISLATIVE SERVICES AGENCY

2009 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 33-33-45.

Synopsis: Lake County superior court. Provides for the four judges of the Lake superior court county division to be: (1) nominated by the Lake County superior court judicial nominating commission and appointed by the governor; and (2) subject to the question of retention or rejection by the Lake County electorate every six years. (Current law provides that the judges of the Lake superior court county division are elected by the electorate of Lake County every six years.) Repeals provisions concerning elected judges of the county division. Makes conforming amendments.

Effective: July 1, 2009.



A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 33-33-45-21 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. (a) The court is
3 divided into civil (including probate), criminal, county, and juvenile
4 divisions. The work of the court shall be divided among the divisions
5 by the rules of the court.

6 (b) Seven (7) judges comprise the civil division. Four (4) judges
7 comprise the criminal division. Four (4) judges comprise the county
8 division. One (1) judge comprises the juvenile division. However, the
9 court by rule may alter the number of judges assigned to a division
10 ~~other than the county division~~ of the court if the court determines that
11 the change is necessary for the efficient operation of the court.

12 (c) The court by rule may reassign a judge of the court from one (1)
13 division to another if the court determines that the change is necessary
14 for the efficient operation of the court. The court by rule shall establish
15 a rotation schedule providing for the rotation of judges through the
16 various divisions. The rotation schedule may be used if a judge
17 determines that an emergency exists. However, a senior judge of any
18 division ~~or a judge of the county division~~ may not be reassigned or
19 rotated to another division under this subsection.

20 (d) The chief judge of the court may assign a judge in one (1)
21 division of the court to hear a case originating in another division of the
22 court, and may reassign cases from one (1) judge to another, if the chief
23 judge determines that the change is necessary for the efficient operation
24 of the court.

25 SECTION 2. IC 33-33-45-25 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 25. ~~(a) Unless the judge~~
27 ~~is a judge of the county division,~~ At the general election immediately
28 preceding the expiration of a judge's extended term, the question of that
29 judge's retention in office or rejection shall be submitted to the
30 electorate of Lake County under section 42 of this chapter. Thereafter,
31 unless rejected by the electorate, each judge shall serve successive



1 terms as provided in section 41(b) of this chapter.

2 ~~(b) A judge of the county division may serve a successive term if~~
 3 ~~elected to serve a successive term under section 43 of this chapter.~~

4 SECTION 3. IC 33-33-45-34 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 34. (a) When a vacancy
 6 occurs in the superior court of Lake County, ~~not including its county~~
 7 ~~division~~, the clerk of the court shall promptly notify the chairman and
 8 each member of the commission of the vacancy. The chairman shall
 9 call a meeting of the commission within ten (10) days following the
 10 notice. The commission shall submit its nominations of three (3)
 11 candidates for each vacancy and certify them to the governor as
 12 promptly as possible, and not later than sixty (60) days after the
 13 vacancy occurs. When it is known that a vacancy will occur at a
 14 definite future date within the term of the governor then serving, but
 15 the vacancy has not yet occurred, the clerk shall notify the chairman
 16 and each member of the commission immediately of the forthcoming
 17 vacancy, and the commission may within fifty (50) days of the notice
 18 of the vacancy make its nominations and submit to the governor the
 19 names of three (3) persons nominated for the forthcoming vacancy.

20 (b) Meetings of the commission shall be called by its chairman or,
 21 if the chairman fails to call a necessary meeting, upon the call of any
 22 five (5) members of the commission. The chairman, whenever the
 23 chairman considers a meeting necessary, or upon the request by any
 24 five (5) members of the commission for a meeting, shall give each
 25 member of the commission at least five (5) days written notice by mail
 26 of the date, time, and place of every meeting unless the commission at
 27 its previous meeting designated the date, time, and place of its next
 28 meeting.

29 (c) Meetings of the commission are to be held at the Lake County
 30 government center in Crown Point or another place, as the circuit court
 31 clerk of Lake County may arrange, at the direction of the chairman of
 32 the commission.

33 (d) The commission may act only at a public meeting. IC 5-14-1.5
 34 applies to meetings of the commission. The commission may not meet
 35 in executive session under IC 5-14-1.5-6.1 for the consideration of a
 36 candidate for judicial appointment.

37 (e) The commission may act only by the concurrence of a majority
 38 of its members attending a meeting. Five (5) members constitute a
 39 quorum at a meeting.

40 (f) The commission may adopt reasonable and proper rules and
 41 regulations for the conduct of its proceedings and the discharge of its
 42 duties. These rules must provide for the receipt of public testimony
 43 concerning the qualifications of candidates for nomination to the
 44 governor.

45 SECTION 4. IC 33-33-45-40 IS AMENDED TO READ AS
 46 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 40. An appointment by



the governor or chief justice, as required by section 38 ~~or 39~~ of this chapter, to the superior court of Lake County takes effect immediately if a vacancy exists at the date of the appointment. The appointment takes effect on the date the vacancy is created if a vacancy does not exist at the date of appointment.

SECTION 5. IC 33-33-45-41 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 41. (a) Each judge appointed under section 38 of this chapter serves an initial term, which begins on the effective date of the appointment of the judge and continues through December 31 in the year of the general election that follows the expiration of two (2) years after the effective date of the judge's appointment.

(b) Unless rejected by the electorate of Lake County under section 42 of this chapter, a judge of the ~~civil division, criminal division, and juvenile division~~ **superior court** shall serve successive six (6) year terms.

~~(c) The term of office of a judge of the county division of the superior court is six (6) years. A judge appointed under section 39 of this chapter to fill a vacancy in the county division of the Lake superior court serves for the unexpired term of the vacating judge and until the appointed judge's successor is elected and qualified.~~

~~(d)~~ (c) Each six (6) year term begins on the first day of January following the expiration of the preceding initial term or the preceding six (6) year term, as the case may be, and continues for six (6) years.

SECTION 6. IC 33-33-45-42, AS AMENDED BY P.L.58-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 42. (a) The question of the retention in office or rejection of each judge of ~~the following divisions~~ of the superior court of Lake County shall be submitted to the electorate of Lake County at the general election immediately preceding expiration of the term of the judge.

~~(1) Civil division.~~

~~(2) Criminal division.~~

~~(3) Juvenile division.~~

(b) At the general election, the question of the retention in office or rejection of a judge described in subsection (a) shall be submitted to the electorate of Lake County in the form prescribed by IC 3-11 and must state "Shall Judge (insert name) of the superior court of Lake County be retained in office for an additional term?".

(c) If a majority of the ballots cast by the electors voting on any question is "Yes", the judge whose name appeared on the question shall be approved for a six (6) year term beginning January 1 following the general election as provided in section 41(b) of this chapter.

(d) If a majority of the ballots cast by the electors voting on any question is "No", the judge whose name appeared on the question shall be rejected. The office of the rejected judge is vacant on January 1



following the rejection. The vacancy shall be filled by appointment by the governor under section 38 of this chapter.

(e) The Lake County election board shall submit the question of the retention in office or rejection of a judge described in subsection (a) to the electorate of Lake County. The submission of the question is subject to the provisions of IC 3 that are not inconsistent with this chapter.

(f) If a judge who is appointed does not desire to serve any further term, the judge shall notify in writing the clerk of the Lake circuit court at least sixty (60) days before any general election, in which case the question of that judge's retention in office or rejection shall not be submitted to the electorate, and the office becomes vacant at the expiration of the term.

SECTION 7. IC 33-33-45-44 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 44. (a) A judge of the superior court may not during a term of office as judge of the superior court do any of the following:

(1) Engage in the practice of law.

(2) Run for elective office. ~~unless the elective office is that of judge of the county division of the Lake superior court.~~

(3) Take part in any political campaign. ~~unless the judge is running for election as judge of the county division and the political campaign is conducted for that office.~~

(b) Failure to comply with this section is sufficient cause for the commission on judicial qualifications to recommend to the supreme court that the judge be censured or removed.

(c) A political party may not directly or indirectly campaign for or against a judge subject to retention or rejection under this chapter.

SECTION 8. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 33-33-45-39; IC 33-33-45-43.

SECTION 9. [EFFECTIVE JULY 1, 2009] **(a) Notwithstanding the amendment and repeal by this act of provisions in IC 33-33-45, and except as provided in subsection (c), the term of a judge of the Lake superior court county division:**

(1) who is in office on June 30, 2009; and

(2) who was elected under IC 33-33-45-43, as repealed by this act;

does not terminate until the date that the term would have terminated under the law in effect on June 30, 2009.

(b) Except as provided in subsection (c), the question of retention or rejection of a judge of the Lake superior court county division described in subsection (a) under IC 33-33-45-25, as amended by this act, shall be placed on the ballot at the general election immediately preceding the date on which the term of the judge occupying the position on June 30, 2009, would have terminated under the law in effect on June 30, 2009.



- 1 (c) A vacancy that occurs on the Lake superior court county
2 division after June 30, 2009, shall be filled as provided in
3 IC 33-33-45-34, as amended by this act. A person appointed to fill
4 a vacancy under this subsection serves an initial term as provided
5 in IC 33-33-45-41, as amended by this act.
6 (d) This SECTION expires January 2, 2015.

